

§ 964.24

formed, any input into changes concerning public housing operations shall be made only through the officially recognized resident council.

§ 964.24 HUD policy on FIC Program.

HUD promotes Family Investment Centers which provide better access to educational and employment opportunities for residents living in public housing. HUD encourages resident involvement in the FIC Program and promotes resident-HA partnerships to achieve mutual goals.

§ 964.30 Other Program requirements.

In addition to the requirements set forth in 24 CFR part 5, the following Federal requirements apply to this program:

(a) *Affirmative Outreach.* (1) The Affirmative Fair Housing Marketing Program requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108; and

(2) The fair housing advertising and poster guidelines at 24 CFR parts 109 and 110.

(b) Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131) and implementing regulations at 28 CFR part 35.

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Subpart B—Tenant Participation

§ 964.100 Role of resident council.

The role of a resident council is to improve the quality of life and resident satisfaction and participate in self-help initiatives to enable residents to create a positive living environment for families living in public housing. Resident councils may actively participate through a working partnership with the HA to advise and assist in all aspects of public housing operations.

§ 964.105 Role of the jurisdiction-wide resident council.

(a) *Jurisdiction-wide resident council.* Resident councils may come together to form an organization which can represent the interest of residents residing in units under a HA's jurisdiction. This can be accomplished by the presidents of duly elected resident councils forming an organization, by resident coun-

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cils electing a representative to the organization, or through jurisdiction-wide elections. If duly elected resident councils form such an organization, the HA shall recognize it as the voice of authority-wide residents for input into housing authority policy making.

(b) *Function.* The jurisdiction-wide council may advise the Board of Commissioners and executive director in all areas of HA operations, including but not limited to occupancy, general management, maintenance, security, resident training, resident employment, social services and modernization priorities.

(c) *Cooperation with other groups.* There shall be regularly scheduled meetings between the HA and the local duly elected resident council, and the jurisdiction-wide resident council to discuss problems, plan activities and review progress.

§ 964.115 Resident council requirements.

A resident council shall consist of persons residing in public housing and must meet each of the following requirements in order to receive official recognition from the HA/HUD, and be eligible to receive funds for resident council activities, and stipends for officers for their related costs for volunteer work in public housing:

(a) It may represent residents residing:

- (1) In scattered site buildings;
 - (2) In areas of contiguous row houses;
- or

- (3) In one or more contiguous buildings;
- (4) In a development; or
- (5) In a combination of these buildings or developments;

(b) It must adopt written procedures such as by-laws, or a constitution which provides for the election of residents to the governing board by the voting membership of the residents residing in public housing, described in paragraph (b) of this section, on a regular basis but at least once every three (3) years. The written procedures must provide for the recall of the resident board by the voting membership. These provisions shall allow for a petition or other expression of the voting membership's desire for a recall election, and

set the number of percentage of voting membership ("threshold") who must be in agreement in order to hold a recall election. This threshold shall not be less than 10 percent of the voting membership.

(c) It must have a democratically elected governing board that is elected by the voting membership. At a minimum, the governing board should consist of five (5) elected board members.

The voting membership must consist of heads of households (any age) and other residents at least 18 years of age or older and whose name appears on a lease for the unit in the public housing that the resident council represents.

§ 964.117 Resident council partnerships.

A resident council may form partnerships with outside organizations, provided that such relationships are complementary to the resident council in its duty to represent the residents, and provided that such outside organizations do not become the governing entity of the resident council.

§ 964.120 Resident management corporation requirements.

A resident management corporation must consist of residents residing in public housing and have each of the following characteristics in order to receive official recognition by the HA and HUD:

(a) It shall be a non-profit organization that is validly incorporated under the laws of the State in which it is located;

(b) It may be established by more than one resident council, so long as each such council:

(1) Approves the establishment of the corporation; and

(2) Has representation on the Board of Directors of the corporation;

(c) It shall have an elected Board of Directors, and elections must be held at least once every three (3) years;

(d) Its by-laws shall require the Board of Directors to include resident representatives of each resident council involved in establishing the corporation; include qualifications to run for office, frequency of elections, procedures for recall, and term limits if desired.

(e) Its voting members shall be heads of households (any age) and other residents at least 18 years of age and whose name appears on the lease of a unit in the public housing represented by the resident management corporation;

(f) Where a resident council already exists for the development, or a portion of the development, the resident management corporation shall be approved by the resident council board and a majority of the residents. If there is no resident council, a majority of the residents of the public housing development it will represent must approve the establishment of such a corporation for the purposes of managing the project; and

(g) It may serve as both the resident management corporation and the resident council, so long as the corporation meets the requirements of this part for a resident council.

§ 964.125 Eligibility for resident council membership.

(a) Any member of a public housing household whose name is on the lease of a unit in the public housing development and meets the requirements of the by-laws is eligible to be a member of a resident council. The resident council may establish additional criteria that are non-discriminatory and do not infringe on rights of other residents in the development. Such criteria must be stated in the by-laws or constitution as appropriate.

(b) The right to vote for resident council board shall be limited to designated heads of households (any age) and other members of the household who are 18 years or older whose name appears on the lease of a unit in the public housing development represented by the resident council.

(c) Any qualified voting member of a resident council who meets the requirements described in the by-laws and is in compliance with the lease may seek office and serve on the resident council governing board.

§ 964.130 Election procedures and standards.

At a minimum, a resident council may use local election boards/commissions. The resident council shall use an

independent third-party to oversee elections and recall procedures.

(a) Resident councils shall adhere to the following minimum standards regarding election procedures:

(1) All procedures must assure fair and frequent elections of resident council members—at least once every three years for each member.

(2) Staggered terms for resident council governing board members and term limits shall be discretionary with the resident council.

(3) Each resident council shall adopt and issue election and recall procedures in their by-laws.

(4) The election procedures shall include qualifications to run for office, frequency of elections, procedures for recall, and term limits if desired.

(5) All voting members of the resident community must be given sufficient notice (at least 30 days) for nomination and election. The notice should include a description of election procedures, eligibility requirements, and dates of nominations and elections.

(b) If a resident council fails to satisfy HUD minimum standards for fair and frequent elections, or fails to follow its own election procedures as adopted, HUD shall require the HA to withdraw recognition of the resident council and to withhold resident services funds as well as funds provided in conjunction with services rendered for resident participation in public housing.

(c) HAs shall monitor the resident council election process and shall establish a procedure to appeal any adverse decision relating to failure to satisfy HUD minimum standards. Such appeal shall be submitted to a jointly selected third-party arbitrator at the local level. If costs are incurred by using a third-party arbitrator, then such costs should be paid from the HAs resident services funds pursuant to § 964.150.

§ 964.135 Resident involvement in HA management operations.

Residents shall be involved and participate in the overall policy development and direction of Public Housing operations.

(a) Resident management corporations (RMCs) may contract with HAs

to perform one or more management functions provided the resident entity has received sufficient training and/or has staff with the necessary expertise to perform the management functions and provided the RMC meets bonding and licensing requirements.

(b) Residents shall be actively involved in a HA's decision-making process and give advice on matters such as modernization, security, maintenance, resident screening and selection, and recreation.

(c) While a HA has responsibility for management operations, it shall ensure strong resident participation in all issues and facets of its operations through the duly elected resident councils at public housing developments, and with jurisdiction-wide resident councils.

(d) A HA shall work in partnership with the duly elected resident councils.

(e) HAs, upon request from the duly elected resident council, shall ensure that the duly elected resident council officers as defined in subpart B of this part, and other residents in the development are fully trained and involved in developing and implementing Federal programs including but not limited to Comprehensive Improvement Assistance Program (CIAP), Comprehensive Grant Program, Urban Revitalization Demonstration, Drug Elimination, and FIC.

(f) HAs shall involve resident council officers and other interested residents at the development through education and direct participation in all phases of the budgetary process.

(g) Resident council officers shall be encouraged to become involved in the resident screening and selection process for prospective residents at the development. Those selected to perform resident screening and selection functions must be trained by the HA in resident screening and selection and must sign a legal document committing to confidentiality.

§ 964.140 Resident training.

(a) *Resident training opportunities.* HUD encourages a partnership between the residents, the HA and HUD, as well as with the public and non-profit sectors to provide training opportunities

for public housing residents. The categories in which training could occur include, but are not limited to:

(1) Community organization and leadership training;

(2) Organizational development training for Resident Management Corporations and duly elected Resident Councils;

(3) Public housing policies, programs, rights and responsibilities training; and

(4) Business entrepreneurial training, planning and job skills.

(b) *Local training resources.* HUD encourages the use of local training resources to ensure the ongoing accessibility and availability of persons to provide training and technical assistance. Possible training resources may include:

(1) Resident organizations;

(2) Housing authorities;

(3) Local community colleges, vocational schools; and

(4) HUD and other Federal agencies and other local public, private and non-profit organizations.

§ 964.145 Conflict of interest.

Resident council officers can not serve as contractors or employees if they are in policy making or supervisory positions at the HA.

§ 964.150 Funding tenant participation.

(a) *Funding duly elected resident councils and jurisdiction wide resident councils.* (1) The HA shall provide funds it receives for this purpose to the duly elected resident council at each development and/or those jurisdiction-wide councils eligible to receive the resident portion of the tenant services account to use for resident participation activities. This shall be an addition to the Performance Funding System (PFS), as provided by 24 CFR part 990, to permit HAs to fund \$25 per unit per year for units represented by duly elected resident councils for resident services, subject to the availability of appropriations. Of this amount, \$15 per unit per year would be provided to fund tenant participation activities under subpart B of this part for duly elected resident councils and/or jurisdiction-wide councils and \$10 per unit per year would be

used by the HA to pay for costs incurred in carrying out tenant participation activities under subpart B of this part, including the expenses for conducting elections, recalls or arbitration required under § 964.130 in subpart B. This will guarantee the resources necessary to create a bona fide partnership among the duly elected resident councils, the HA and HUD. Where both local and jurisdiction-wide councils exist, the distribution will be agreed upon by the HA and the respective councils.

(2) If funds are available through appropriations, the HA must provide tenant services funding to the duly elected resident councils regardless of the HA's financial status. The resident council funds shall not be impacted or restricted by the HA financial status and all said funds must be used for the purpose set forth in subparts B and C of this part.

(3) The HA and the duly elected resident council at each development and/or those jurisdiction-wide councils shall collaborate on how the funds will be distributed for tenant participation activities. If disputes regarding funding decisions arise between the parties, the matter shall be referred to the Field Office for intervention. HUD Field Office shall require the parties to undertake further negotiations to resolve the dispute. If no resolution is achieved within 90 days from the date of the Field Office intervention, the Field Office shall refer the matter to HUD Headquarters for final resolution.

(b) *Stipends.* (1) HUD encourages HAs to provide stipends to resident council officers who serve as volunteers in their public housing developments. The amount of the stipend, up to \$200 per month/per officer, shall be decided locally by the resident council and the HA. Subject to appropriations, the stipends will be funded from the resident council's portion of the operating subsidy funding for resident council expenses (\$15.00 per unit per year).

(2) Pursuant to § 913.106, stipends are not to be construed as salaries and should not be included as income for calculation of rents, and are not subject to conflict of interest requirements.

(3) Funding provided by a HA to a duly elected resident council may be made only under a written agreement between the HA and a resident council, which includes a resident council budget and assurance that all resident council expenditures will not contravene provisions of law and will promote serviceability, efficiency, economy and stability in the operation of the local development. The agreement must require the local resident council to account to the HA for the use of the funds and permit the HA to inspect and audit the resident council's financial records related to the agreement.

Subpart C—Tenant Opportunities Program

§ 964.200 General.

(a) The Tenant Opportunities Program (TOP) provides technical assistance for various activities, including but not limited to resident management, for resident councils/resident management corporations as authorized by Section 20 of the U.S. Housing Act of 1937. The TOP provides opportunities for resident organizations to improve living conditions and resident satisfaction in public housing communities.

(b) This subpart establishes the policies, procedures and requirements for participating in the TOP with respect to applications for funding for programs identified in this subpart.

(c) This subpart contains the policies, procedures and requirements for the resident management program as authorized by section 20 of the U.S. Housing Act of 1937.

§ 964.205 Eligibility.

(a) *Resident councils/resident management corporations.* Any eligible resident council/resident management corporation as defined in subpart B of this part is eligible to participate in a program administered under this subpart.

(b) *Activities.* Activities to be funded and carried out by an eligible resident council or resident management corporation, as defined in subpart B of this part, must improve the living conditions and public housing operations and may include any combination of, but are not limited to, the following:

(1) *Resident capacity building.* (i) Training Board members in community organizing, Board development, and leadership training;

(ii) Determining the feasibility of resident management enablement for a specific project or projects; and

(iii) Assisting in the actual creation of an RMC, such as consulting and legal assistance to incorporate, preparing by-laws and drafting a corporate charter.

(2) *Resident management.* (i) Training residents, as potential employees of an RMC, in skills directly related to the operation, management, maintenance and financial systems of a project;

(ii) Training of residents with respect to fair housing requirements; and

(iii) Gaining assistance in negotiating management contracts, and designing a long-range planning system.

(3) *Resident management business development.* (i) Training related to resident-owned business development and technical assistance for job training and placement in RMC developments;

(ii) Technical assistance and training in resident managed business development through:

(A) Feasibility and market studies;

(B) Development of business plans;

(C) Outreach activities; and

(D) Innovative financing methods including revolving loan funds; and

(iii) Legal advice in establishing a resident managed business entity.

(4) *Social support needs (such as self-sufficiency and youth initiatives).* (i) Feasibility studies to determine training and social services needs;

(ii) Training in management-related trade skills, computer skills, etc;

(iii) Management-related employment training and counseling;

(iv) Coordination of support services;

(v) Training for programs such as child care, early childhood development, parent involvement, volunteer services, parenting skills, before and after school programs;

(vi) Training programs on health, nutrition and safety;

(vii) Workshops for youth services, child abuse and neglect prevention, tutorial services, in partnership with community-based organizations such as local Boys and Girls Clubs, YMCA/YWCA, Boy/Girl Scouts, Campfire and